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To: 'microsoft.atr(a)usdoj.gov'
Date: 12/10/01 4:18pm
Subject: Microsoft Settlement

I am writing today to comment on the proposed Final Judgement of the Microsoft Anti-Trust trial. While I acknowledge that Microsoft has developed many products of great value to consumers, I feel that they have unfairly exploited their monopoly position in so-called desktop computer operating systems to crush many competing products and commercial producers. The proposed Final Judgement does too little to punish Microsoft, to compensate competitors, or to prevent continued abuse.

I strongly encourage the Court to reject the proposal.

If the Court chooses not to reject the proposal, I see little hope for Microsoft's commercial competitors. Fortunately for the American consumer, there are a number of strong non-commercial competitors to Microsoft. The Free Software Foundation, the Apache Foundation, and the SAMBA organization are all not-for-profit organizations that produce software products that directly compete with, and in many cases, can be used in place of, Microsoft products. Among their other virtues, these Open Source Software products are available for zero price for anyone who wishes to download them from the Internet as they were developed by volunteers. The zero price and voluntary contributions have allowed these products to flourish in the face of previous Microsoft's anti-competitive practices. Some industry observers (including some Microsoft employees, cf. <http://www.opensource.org/halloween/halloween1.html>) currently consider Open Source Software products to be Microsoft's primary competition in their market segments, and sometimes they actually hold *dominant* market positions (cf. <http://www.netcraft.com/survey>). As such, many people expect Microsoft to attempt to use its monopoly position to crush these non-commercial upstarts.

Sadly, the proposed Final Judgement may be just the tool Microsoft needs to accomplish this task.

To quote from last week's editorial by Robert X. Cringely (<http://www.pbs.org/cringely/pulpit/pulpit20011206.html>), "Section III(J)(s) contains some very strong language against not-for-profits. Specifically, the language says that it need not describe nor license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: '...(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ...'" Not only does this language allow Microsoft to set the terms as to what is and what is not a viable business and thus ignore any business based upon the Open Source Software but it precludes Microsoft from having to divulge this information to any organization that is not a business.

The last time I looked, the Justice Department, FBI, CIA, and Federal Judiciary were not considered "businesses".

Section III(J)(2) taken with Section III(D) -- which requires Microsoft to disclose information and APIs to allow access to non-Microsoft "middleware" products, but only to commercial concerns -- seem directly aimed at the very market segments where organizations developing Open Source Software have made their greatest inroads against Microsoft's monopoly. These sections of the proposed Final Judgement must be reworded to reflect the continuing contributions made by not-for-profit organizations to the software industry and to the American consumer. Failure to do so will allow Microsoft, a company guilty of using its monopoly position in anti-competitive practices, to freeze out its greatest remaining competitors.

Thank you for your time.

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